IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 23687 of 2003(T)

PETITIONER:

M.K.JOHNY, S/O.KURIAPPAN,
MARAKAPPILLY HOUSE, ANANDAPURAM P.O.,
THRISSUR.

BY ADV. SRI.P.RAMAKRISHNAN.

RESPONDENTS:
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1. **THE INDUSTRIAL TRIBUNAL, PALAKKAD.**

2. **THE PRESIDENT, MOORIYAD SERVICE CO-OPERATIVE BANK LIMITED NO.479, MOORIYAD P.O.**

3. **THE SECRETARY, MOORIYAD CO-OPERATIVE BANK LIMITED NO.479, MOORIYAD.**

BY ADV. SRI.S.SREEKUMAR FOR R2 & R3,
GOVT. PLEADER SRI. P.N. SANTHOSH FOR R1.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.23687/2003-T:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER DTD. 22/08/1987 OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, THRISSUR TO THE R.3.

EXT.P.2: COPY OF THE AWARD DTD. 15/03/2002 IN I.D. NO. 12/2001 OF THE R.1.

RESPONDENT'S EXHIBITS:

EXT. R3.A: COPY OF THE MEMORANDUM OF SETTLEMENT DTD. 15/07/1987.

EXT.R3.B: COPY OF THE CIRCULAR NO. 52/80 DTD. 22/07/1980.

EXT. R3.C: COPY OF THE JUDGEMENT IN O.P. NO. 14210/1993 DTD. 03/01/1994.

//TRUE COPY//

prv.

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.23687 of 2003

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Dated this the 15th day of October, 2007.

JUDGMENT

Having regard to the contentions raised in this writ petition, the Registrar of Co-operative Societies is impleaded as additional respondent, for whom learned Government Pleader takes notice. Certain issues relating to the continued employment of the writ petitioner and another led to a conciliation settlement dated 15-7-1987 whereby, the management, a Co-operative Society, agreed to appoint those persons against the existing vacancies of attendants subject to the approval of the Joint Registrar of Co-operative Societies and that such appointments would be treated as fresh appointments.

2. Pursuant to that, the management moved the Joint Registrar, Thrissur who issued Ext.P1 communication dated 22-8-1987, stating that the appointment could be made in terms of the circular issued by the RCS and that any exemption from the directions of the RCS cannot be issued from the Office of the Joint

Registrar. Obviously, such situation required the management to move the RCS. Instead, it left the matters there. This resulted in a claim petition being filed by the union before the Industrial Tribunal, which decided, as per Ext.P2, that in view of Ext.P1 communication of the Joint Registrar, which was Ext.M1 before the Industrial Tribunal, the appointment of the petitioner would be made as and when clearance is obtained from the appropriate authority. The matter was accordingly closed relegating the parties to agitate the correctness or otherwise of Ext.P1.

3. The aforesaid facts would show that, to give effect to the settlement entered into between the management and the parties in relation to the employment of the petitioner, it was the requirement that the settlement between the parties arrived at on conciliation on 15-7-1987, ought to gain attention of the competent authority. In Ext.P1, the Joint Registrar took the stand that the appointment could be made only in terms of the circular issued by the RCS. Obviously, those circulars would have to be in terms of the statutory provisions of the Act. If any deviation is required by way of exemption from the provisions of the circular

issued by the RCS, the Joint Registrar is right in saying in Ext.P1 that it is not within his authority. This also means that the power, if any, to grant exemption as per the circulars of the RCS lies with the RCS alone.

To do complete justice to the parties and because nothing has happened in spite of what is stated in the last paragraph of Ext.P2 dated 15-3-2002, this writ petition is disposed of directing that if the petitioner moves the RCS seeking intervention in the matter, the RCS will consider such request after perusing the relevant materials and affording the petitioner an opportunity of being heard. Let that be done within a period of three months from the date of receipt of a copy of this judgment.

Thottathil B.Radhakrishnan,
Judge.

sl.